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| 09/970,052 | 10/03/2001 | Manoel Tenorio | 020431.0912 | 8991 |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/970,052 | TENORIO, MANOEL |
| | Examiner | Art Unit | |
| | Marissa Liu | 3691 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *12 March 2007*.

2a)☒ This action is **FINAL**.     2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

# DETAILED ACTION

1.      This action is in response to a reply submitted 3/12/2007. Claims 1-20 are currently

pending in the application. After careful consideration of Applicant's arguments, the rejections

of claims 1-20 are maintained as set forth in detail below.

## *Claim Rejections - 35 USC § 102*

1.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.      Claims 1-6, 10-16, and 19-20 are rejected under 35 U.S.C. 102(b) as being unpatentable

by Lupien et al., U.S. Patent Num: 6,012,046 (PTO-892 reference A).

3.      As per claim 1, Lupien et al. teaches a system for generating a display of at least one side

of a market, the displayed side of the market comprising one or more offers from one or more

market participants, each offer comprising at least an offered price and an offered quantity, the

system comprising a computer system having one or more computers and operable to:

receive market data reflecting the one or more offers (see Fig. 2 and 6);

generate a display of the received market data, the display comprising a price

axis, a quantity axis (see column 6, lines 48-50 and column7, lines 29-40 and Fig. 2-3 and 6),

and one or more offer bars, each offer bar representing one or more offers comprising

substantially equal offered prices, placement of an offer bar along the price axis (see column 7,

lines 3-35) representing the substantially equal offered prices for the one or more offers

represented by the offer bar, height of an offer bar relative to the quantity axis representing an

aggregate offered quantity for the one or more offers represented by the offer bar (see Fig. 2-3, 6,

10);

access an average price specified by a user (see abstract);

calculate an offered quantity (see column 12, lines 7-13) available at the specified

average price based on the received market data (see Fig. 2 and column 6, lines 66-67 and

column 7, lines 1-5); and

indicate the calculated offered quantity within the display of the received

market data (see column 12, lines 7-14).

4.      As per claim 2, Lupien et al. teaches the system of Claim 1 described above. Lupien et

al. further teaches wherein the indication of the calculated offered quantity comprises a line

placed along the quantity axis at the calculated offered quantity (see Fig. 2-3 and 6).

5.      As per claim 3, Lupien et al. teaches the system of Claim 1 described above. Lupien et

al. further teaches wherein:

the computer system is further operable to indicate the specified average price (see Fig. 2

and column 6, lines 65-67) in addition to the calculated offered quantity (see column 12, lines

10-13) ; and

the display of the specified average price comprises a line placed along the

price axis at the specified average price (see Fig. 2-3 and 6).

6.      As per claim 4, Lupien et al. teaches the system of Claim 1, wherein:

the offers comprise asks (see column 2, lines 5-9);

the market participants comprise sellers (see column 2, lines 5-6);

offered prices comprise ask prices (see column 2, lines 5-27 and abstract);

offered quantities comprise ask quantities (see column 2, lines 5-27 and abstract).;

the offer bars comprise ask bars (see Fig. 9A and column 12, lines 24-32);

the specified average price comprises an average buy price (see column 7, lines 42-47);

and

the calculated offered quantity comprises a quantity available at the specified average buy

price (see column 6, lines 66-67, column 19, lines 55-67 and Fig. 2).

7.      As per claim 5, Lupien et al. teaches the system of Claim 1 described above. Lupien et

al. further teaches wherein the computer system is further operable to:

access a quantity specified by the user (see Fig 2 and column 6, lines 66-67).;

calculate an average offered price at which the specified quantity is available

based on the market data (see column 19, lines 53-67, Fig. 2-3, and 6); and

indicate the calculated average offered price within the display of the received

market data (see column 2, lines 20-25).

8.      As per claim 6, Lupien et al. teaches the system of Claim 1 described above. Lupien et al.

further teaches wherein the computer system is further operable to:

receive new market data reflecting one or more changes in the one or more offers (see

abstract and column 2, lines 18-33); and

in response to receiving the new market data, update the display of the market data (see

column 7, lines 55-58).

9.      As per claim 10, Lupien et al. teaches a method for generating a display of at least one

side of a market, the displayed side of the market comprising one or more offers from one or

more market participants, each offer comprising at least an offered price and an offered quantity,

the method comprising:

receiving market data reflecting the one or more offers (see Figs. 2 and 6);

generating a display of the received market data, the display comprising a price axis, a quantity

axis (see column7, lines 29-40 and Fig. 2-3 and 6), and one or more offer bars, each offer bar

representing one or more offers comprising substantially equal offered prices (see column 7,

lines 3-35), placement of an offer bar along the price axis representing the substantially equal

offered prices for one or more offers represented by the offer bar, height of an offer bar relative

to the quantity axis representing an aggregate offered quantity for the one or more offers

represented by the offer bar (see column 7, lines 3-35 and Figs. 2, 6-7);

accessing an average price specified by a user (see abstract);

calculating an offered quantity (see column 12, lines 7-13) available at the specified

average offered price based on the received market data (see Fig. 2 and column 6, lines 66-67

and column 7, lines 1-5); and

indicating the calculated offered quantity within the display of the received

market data (see column 12, lines 7-14).

10.     As per claim 11, Software for generating a display of at least one side of a market, the

displayed side of the market comprising one or more offers from one or more market

participants, each offer comprising at least an offered price and an offered quantity, the software

embodied in a computer-readable medium and when executed operable to:

receive market data reflecting the one or more offers (see Figs. 2 and 6);

generate a display of the received market data, the display comprising a price

axis, a quantity axis (see column 7, lines 3-35), and one or more offer bars, each offer bar

representing one or more offers comprising substantially equal offered prices, placement of an

offer bar along the price axis representing the substantially equal offered prices for one or more

offers represented by the offer bar, height of an offer bar relative to the quantity axis representing

an aggregate offered quantity for the one or more offers represented by the offer bar (see column

7, lines 3-35 and Figs. 2, 6-7);

access an average price specified by a user (see abstract);

calculate an offered quantity available (see column 12, lines 7-13) at the specified

average offered price based on the received market data (see Fig. 2 and column 6, lines 66-67

and column 7, lines 1-5); and

indicate the calculated offered quantity within the display of the received

market data (see column 12, lines 7-14).

11.     As per claim 12, Lupien teaches a system for generating a display of at least one side of a

market, the displayed side of the market comprising one or more offers from one or more market

participants, each offer comprising at least an offered price and an offered quantity,

the system comprising:

means for receiving market data reflecting the one or more offers (see Fig. 2 and 6);

means for generating a display of the received market data, the display comprising a price

axis, a quantity axis (see column 7, lines 3-35), and one or more offer bars, each offer bar

representing one or more offers comprising substantially equal offered prices, placement of an

offer bar along the price axis representing the substantially equal offered prices for one or more

offers represented by the offer bar, height of an offer bar relative to the quantity axis representing

an aggregate offered quantity for the one or more offers represented by the offer bar (see column

7, lines 3-35 and Figs. 2, 6-7);

means for accessing an average price specified by a user (see abstract);

means for calculating an offered quantity (see column 12, lines 7-13) available at the

specified average offered price based on the received market data (see Fig. 2 and column 6, lines

66-67 and column 7, lines 1-5); and

means for indicating the calculated offered quantity within the display of the

received market data (see column 12, lines 7-14).

12.    As per claim 13, Lupien teaches a system for generating a display of at least one side of a

market, the displayed side of the market comprising one or more asks from one or more sellers,

each ask comprising at least an ask price and an ask quantity, the system comprising a

computer system having one or more computers and operable to:

receive market data reflecting the one or more asks (see Fig. 2 and 6);

generate a display of the received market data, the display comprising a price axis, a quantity

axis (see column 7, lines 3-35) , and one or more ask bars, each ask bar representing one or more

asks comprising substantially equal ask prices, placement of an ask bar along the price axis

representing the substantially equal ask prices for the one or more asks represented by the ask

bar, height of an ask bar relative to the quantity axis representing an aggregate ask quantity for

the one or more asks represented by the ask bar (see column 7, lines 3-35 and Figs. 2, 6-7);

access an average buy price specified by a user (see abstract);

calculate a quantity (see column 12, lines 7-13) available at the average buy price based on the received market data (see Fig.2 and column 6, lines 66-67 and column 7, lines 1-5);

indicate the specified average buy price within the display of the received market data, the indication of the specified average buy price comprising a line placed along the price axis at the specified average price (see Fig. 2 and column 6, lines 66-67 and column 7, lines 1-45);

indicate the calculated quantity within the display of the received market data, the indication of the calculated quantity comprising a line placed along the quantity axis at the calculated offered quantity (see Fig.2, column 7, lines 1-45, and column 12, lines 1-13);.

access a quantity specified by the user (see abstract);

calculate an average buy price at which the specified quantity is available based on the market data (see column 12, lines 1-14);

indicate the specified quantity within the display of the received market data, the indication of the specified quantity comprising a line placed along the quantity axis at the specified quantity (see Figs. 2-3 and 6-7);

indicate the calculated average buy price within the display of the received market data, the indication of the calculated average buy price comprising a line placed along the price axis at the calculated average buy price (see Figs. 2-3 and 6-7);

receive new market data reflecting one or more changes in the one or more asks (see column 2, lines 1-30 and column 7, lines 30-62); and

in response to receiving the new market data, update the display of the market data (see column 7, lines 55-60).

13.      As per claim 14, Lupien et al. teaches a system for generating a display of at least one

side of a market, the displayed side of the market comprising one or more offers from one or

more market participants, each offer comprising at least an offered price and an offered quantity,

the system comprising a computer system having one or more computers and operable to:

receive market data reflecting the one or more offers (see Figs. 2 and 6);

generate a display of the received market data, the display comprising a price

axis, a quantity axis, a first price curve comprising a plot of average offered price as a

function of quantity alone, and a second price curve comprising a plot of average offered price as

a function of quantity and an approved market participant list for a user, there being an area

separating at least certain portions of the first price curve from certain portions of the second

price curve, there generally being higher average offered prices associated with the first price

curve and lower average offered prices associated with the second price curve (see Fig. 2-3, 6-

10);

access a quantity specified by the user (see abstract and column 6, lines 40-67);

calculate a first average offered price (see column 2, lines 49-67) and a second average

offered price (see abstract and column 12, lines 1-15).

first average offered price comprising a price at which the specified quantity is

available independent of the approved market participant list (see column 2, lines 49-67, where

"anonymous" is equivalent of 'independent of the approved market participant list"), the second

average offered price comprising a price at which the specified quantity is available taking into

account the approved market participant list (see abstract and column 12, lines 1-15), the first

calculated average offered price being less than or equal to the second calculated average offered price (see column 19, lines 54-59); and

indicate the first and second calculated average prices within the display of the received market data (see column 7, lines 30-62).

14.    As claim 15, Lupien et al. teaches the system of Claim 14 described above. Lupien et al further teaches wherein the indication of the first and second calculated average offered prices comprises a line placed along the quantity axis at the specified quantity, the line intersecting the first price curve at the first calculated average offered price, the line intersecting the second price curve at the second calculated average offered price (see Figs. 2-3 and 6-7).

15.    As per claim 16, Lupien et al. teaches the system of Claim 14 described above. Lupien further teaches wherein:

the offers comprise asks (see column 2, lines 5-9);

the market participants comprise sellers (see column 2, lines 5-6);

offered prices comprise ask prices (see column 2, lines 5-27 and abstract);

offered quantities comprise ask quantities (see column 2, lines 5-27 and abstract);

the approved market participant list comprises an approved seller list; and

the calculated first and second average offered prices each comprise an average buy price at which the specified quantity is available (see Fig. 2, column 2, lines 66-67 and column 6, lines 48-50).

16.    As per claim 19, Lupien et al. teaches a method for generating a display of at least one side of a market, the displayed side of the market comprising one or more offers from one or more market participants, each offer comprising at least an offered price and an offered quantity,

the method comprising:

receiving market data reflecting the one or more offers (see Figs. 2, 6).

generating a display of the received market data, the display comprising a price axis, a quantity axis, a first price curve comprising a plot of average offered price as a function of quantity alone, and a second price curve comprising a plot of average offered price as a function of quantity and an approved market participant list for a user, there being an area separating at least certain portions of the first price curve from certain portions of the second price curve, there generally being higher average offered prices associated with the first price curve and lower average offered prices associated with the second price curve (see Figs. 2-3 and 6-10);

accessing a quantity specified by the user (see column 6, lines 40-67 and abstract);

calculating a first average offered price (see column 2, lines 49-67) and a second average offered price (see abstract and column 12, lines 1-15),

first average offered price comprising a price at which the specified quantity is available independent of the approved market participant list (see column 2, lines 49-67, where "anonymous" is equivalent of "independent of the approved market participant list"), the second average offered price comprising a price at which the specified quantity is available taking into account the approved market participant list (see abstract and column 12, lines 1-15), the first calculated average offered price being less than or equal to the second calculated average offered price (see column 19, lines 54-59); and

indicating the first and second calculated average offered prices within the display of the received market data (see column 7, lines 30-62).

17.     As per claim 20, Lupien teaches a software for generating a display of at least one side of

a market, the displayed side of the market comprising one or more offers from one or more

market participants, each offer comprising at least an offered price and an offered quantity,

the software embodied in a computer-readable medium and when executed operable

to:

        receive market data reflecting the one or more offers (see Figs. 2, 6);

generate a display of the received market data, the display comprising a price

axis, a quantity axis, a first price curve comprising a plot of average offered price as a

function of quantity alone, and a second price curve comprising a plot of average offered price as

a function of quantity and an approved market participant list for a user, there being an area

separating at least certain portions of the first price curve from certain portions of the second

price curve, there generally being higher average offered prices associated with the first price

curve and lower average offered prices associated with the second price curve (see Figs. 2-3 and

6-10);

        access a quantity specified by the user (see column 6, lines 40-67 and abstract);

        calculate a first average offered price (see column 2, lines 49-67)  and a second average

offered price (see abstract and column 12, lines 1-15), the first average offered price comprising

a price at which the specified quantity is available independent of the approved market

participant list (see column 2, lines 49-67, where "anonymous" is equivalent of "independent of

the approved market participant list"), the second average offered price comprising a price at

which the specified quantity is available taking into account the approved market participant list

(see abstract and column 12, lines 1-15), the first calculated average offered price being less than

or equal to the second calculated average offered price (see column 19, lines 54-59); and

indicate the first and second calculated average offered prices within the

display of the received market data (see column 7, lines 30-62).

## *Claim Rejections - 35 USC § 103*

18.     The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

19.     Claims 7-9 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Lupien et al., U.S. Patent No.: 6,012,046 (see PTO-892 reference A) in view of Buist, U.S.

Patent No. 6,408,282 (see PTO-892 reference B).

20.     As per claim 7, Lupien et al. teaches the system of claim 1 described above.  Lupien

further teaches wherein the computer system is further operable to:

calculate the offered quantity available at the specified average price (see Fig.2 and

column 6, lines 66-67 and column 7, lines 1-5).

Lupien does not teaches the following:

access an approved market participant list;

adjust the heights of one or more offer bars to reflect one or more market participants

being excluded from the approved market participant list; and

based on the approved market participant list in addition to the received market data.

Buist teaches the following:

access an approved market participant list and approved market participant list in addition

to the received market data (see column 3, lines 33-34, where "access to critical information" is

equivalent of "access an approved market participant list and approved market participant list in

addition to the received market data"; Fig. 40, where "application highlights user's position in

the selected stock in positions window" is equivalent of "access an approved market participant

list and approved market participant list in addition to the received market data"; Fig. 49).

adjust the heights of one or more offer bars to reflect one or more market participants

being excluded from the approved market participant list (see column 15, lines 27-67, where

""re-scales the vertical axis of the price map to allow visualization of the entire day's trade

range" is equivalent of "adjust the heights of one or more offer bars to" ; column 16, lines 1-40;

Fig. 60).

based on the approved market participant list in addition to the received market data (see

Fig. 60; column 15, lines 27-67 and column 16, lines 1-40).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the

time the invention was made to add market participant list and adjust the heights of one or more

offer bars features to the system of Lupien et al. because Buist teaches that adding market

participant list and adjust the heights of one or more offer bars features help supports an

improved human interface and provides faster access to critical information (see column 2, lines

65-67 and column 3, lines 33-34).

21. As per claim 8, Lupien teaches the system of Claim 7 described above. Lupien et al.

further teaches wherein:

the offers comprise asks (see column 2, lines 5-9);

the market participants comprise sellers (see column 2, lines 5-6);

offered prices comprise ask prices (see column 2, lines 5-27 and abstract);

offered quantities comprise ask quantities (see column 2, lines 5-27 and abstract);

the specified average price comprises an average buy price (see column 7, lines 42-47);

and

the calculated offered quantity comprises a quantity available at the average buy price

(see column 6, lines 66-67, column 19, lines 55-67).

Lupien does not teach:

the offer bars comprise ask bars;

the approved market participant list comprises an approved seller list;

Buist teaches:

the offer bars comprise ask bars (see Fig. 14 and column 15, lines 30-67);

the approved market participant list comprises an approved seller list (see column 3, lines

33-34; Fig. 40; Fig. 49; Fig. 48B, where "seller to notify seller's broker of authorized

transaction" is equivalent of "approved seller list").

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time

the invention was made to add market participant list and offer bars comprise ask bars features to

the system of Lupien et al. because Buist teaches that adding market participant list and offer

bars comprise ask bars features help supports an improved human interface and provides faster

access to critical information (see column 2, lines 65-67 and column 3, lines 33-34).

22.    As per claim 9, Lupien in view of Buist teaches the system of Claim 7 described above.

Buist further teaches:

operable to divide each of the offer bars into one or more bar segments, each bar

segment corresponding to a particular offer from a particular market participant (see Fig. 13; Fig.

14 shows the "divide each of the offer bars into one or more bar segments"; Fig. 49 and column

15, lines 30-67).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time

the invention was made to add market participant list to the system of Lupien et al. because Buist

teaches that adding market participant list helps supports an improved human interface and

provides faster access to critical information (see column 2, lines 65-67 and column 3, lines 33-

34).

23.    As per claim 17, Lupien et al. teaches the system of Claim 14. Lupien further teaches

wherein the computer system is further operable to:

access an average price specified by the user (see abstract and column 6, lines 66-67)

Lupien et al. does not teach:

calculate a first offered quantity and a second offered quantity, the first calculated offered

quantity comprising a quantity available at the specified average price independent of the

approved market participant list, the second calculated offered quantity comprising a quantity

available at the specified average price taking into account the approved market participant list,

the first calculated offered quantity being greater than or equal to the second calculated offered

quantity; and indicate the first and second calculated offered quantities within the display of

the received market data.

Buist teaches:

calculate a first offered quantity (see column 37, lines15-45, where "a first list of offers to

sell" is equivalent of "a first offered quantity") and a second offered quantity (see column 37,

lines 15-45, where "second list of offers to sell" is equivalent of "second offered quantity"), the

first calculated offered quantity comprising a quantity available independent of the approved

market participant list, the second calculated offered quantity comprising a quantity available

taking into account the approved market participant list (see column 3, lines 33-34 and Figs. 40,

and 49), the first calculated offered quantity being greater than or equal to the second calculated

offered quantity; and indicate the first and second calculated offered quantities within the display

of the received market data (see Fig. 14, column 37, lines 15-47 and column 38, lines 1-26).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time

the invention was made to add market participant list and the first and second calculated offered

quantities features to the system of Lupien et al. because Buist teaches that adding market

participant list and the first and second calculated offered quantities features help supports an

improved human interface and provides faster access to critical information (see column 2, lines

65-67 and column 3, lines 33-34).

24.      As per claim 18, Lupien et al. teaches the system of Claim 14 described above. Buist

further teaches wherein the computer system is further operable to:

receive new market data reflecting one or more changes in the one or more

offers (see column 2, lines 65-67 and column 3, lines 1-44).

in response to receiving the new market data, update the display of the market

data (see column 2, lines 65-67 and column 3, lines 1-44).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time

the invention was made to add receive new market data reflecting one or more changes in the

one or more offers and update display of the market data features to the system of Lupien et al.

because Buist teaches that adding receive new market data reflecting one or more changes in the

one or more offers and update display of the market data features help supports an improved

human interface and provides faster access to critical information (see column 2, lines 65-67 and

column 3, lines 33-34).


### Response to Arguments

25.      Applicant's arguments filed on 3/12/2007 have been fully considered but they are not

persuasive. The 102 and 103 rejections are maintained.

In response to applicant's arguments, the recitation the "a system for generating a display of a t

least one side of a market" has not been given patentable weight because the recitation occurs in

the preamble. A preamble is generally not accorded any patentable weight where it merely

recites the purpose of a process or the intended use of a structure, and where the body of the

claim does not depend on the preamble for completeness but, instead, the process steps or

structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15

(CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

26.      In response to applicant's argument that Lupien et al. or Buist et al. fails to disclose,

teach or suggest limitations regarding "indicate the calculated offered quantity within the display

of the received market data". The examiner disagrees. The limitation regarding "indicate the

calculated offered quantity within the display of the received data" is shown in page 23, lines 31-

35 of Lupien stating "calculating for each satisfaction density profile pair a mutual satisfaction function, each mutual satisfaction function including a plurality of (price, quantity) combinations representing a degree of mutual satisfaction for trading said quantity at said price". Therefore, Lupien et al. discloses the claimed invention.

27.     In response to applicant's argument for claims 10-14, 19, and 20, applicant stated that these claims include limitations similar to those discussed above in connection with independent Claim 1. Thus, independent Claims 10-14, 19, and 20 are considered unpatentable by Lupien et al. for at least the reasons discussed above in connection with independent Claim 1.

Furthermore, with respect to dependent Claims 2-6, 15, and 16: Claims 2-6 depend from independent Claim 1 and dependent Claims 15 and 16 depend from independent Claim 14 are also unpatentable over Lupien et al. Thus, dependent Claims 2-6, 15, and 16 are not allowable for at least the reason of depending from a not allowable claim.

28.     In response to applicant's arguments for claims 7-9, 17 and 18, the recitation "a system for generating a display of at least one side of a market, the displayed side of the market comprising one or more offers from one or more market participants, each offer comprising at least an offered price and an offered quantity" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

29.    In response to applicant's argument that the examiner's conclusion of obviousness is

based upon improper hindsight reasoning, it must be recognized that any judgment on

obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so

long as it takes into account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge gleaned only from the

applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392,

170 USPQ 209 (CCPA 1971).

30.    As response to applicant's argument that the Examiner has not adequately supported the

. selection and combination of Lupien and Buist to render obvious the Applicant's claimed

invention. The examiner disagrees. In the instant application, the motivation to combine was

explicitly shown from the Buist reference (see rejection of claim 7 above).

31.    In response to applicant's argument claims 7-9 and 17-18, please refer to the 103

rejection stated above for clarification.

## *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this action and the advisory action is not mailed until after the

end of the THREE-MONTH shortened statutory period, then the shortened statutory period will

expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,
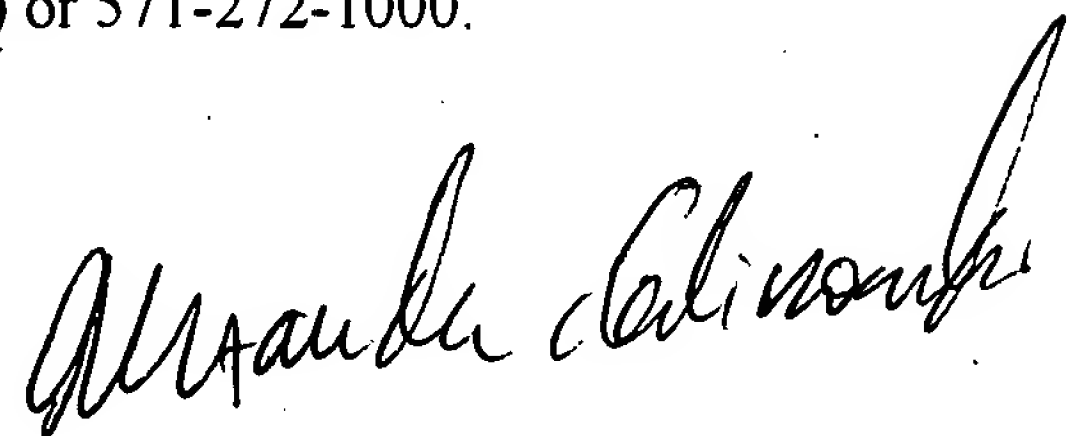
will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Liu whose telephone number is 571-270-1370. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on 571-272-6711. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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